

AMENDED IN SENATE JUNE 17, 2002

AMENDED IN SENATE MAY 8, 2002

AMENDED IN ASSEMBLY JANUARY 22, 2002

AMENDED IN ASSEMBLY JANUARY 7, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1344

Introduced by Assembly Member Cox

February 23, 2001

An act to amend Section 594.1 of the Penal Code, relating to etching cream.

LEGISLATIVE COUNSEL'S DIGEST

AB 1344, as amended, Cox. Etching cream.

Existing law provides that it is unlawful for anyone to sell, give away, or furnish a minor with an aerosol container of paint capable of defacing property except as specified. Existing law also requires retailers selling aerosol containers of paint to post a sign, as specified, stating that defacement of real or personal property with paint is unlawful. It is also unlawful for a minor to possess an aerosol container of paint for the purpose of defacing property while in any public place.

This bill would extend these provisions to include etching cream, as defined. By creating a new crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 594.1 of the Penal Code is amended to
2 read:

3 594.1. (a) (1) It shall be unlawful for any person, firm, or
4 corporation, except a parent or legal guardian, to sell or give or in
5 any way furnish to another person, who is in fact under the age of
6 18 years, any etching cream or aerosol container of paint that is
7 capable of defacing property without first obtaining bona fide
8 evidence of majority and identity.

9 (2) For purposes of this ~~subdivision~~ section, “etching cream”
10 means any caustic cream, gel, liquid, or solution capable, by means
11 of a chemical action, of defacing, damaging, or destroying hard
12 surfaces in a manner similar to acid.

13 (3) For purposes of this subdivision, “bona fide evidence of
14 majority and identity” is any document evidencing the age and
15 identity of an individual which has been issued by a federal, state,
16 or local governmental entity, and includes, but is not limited to, a
17 motor vehicle operator’s license, a registration certificate issued
18 under the federal Selective Service Act, or an identification card
19 issued to a member of the armed forces.

20 (4) This subdivision shall not apply to the furnishing of six
21 ounces or less of etching cream or an aerosol container of paint to
22 a minor for the minor’s use or possession under the supervision of
23 the minor’s parent, guardian, instructor, or employer.

24 (5) Etching cream, aerosol containers of paint, or related
25 substances may be furnished for use in school-related activities
26 that are part of the instructional program when used under
27 controlled and supervised situations within the classroom or on the
28 site of a supervised project. These containers may not leave the
29 supervised site and shall be inventoried by the instructor. This use
30 shall comply with Section 32060 of the Education Code regarding
31 the safe use of toxic art supplies in schools.



1 (b) It shall be unlawful for any person under the age of 18 years
2 to purchase etching cream or an aerosol container of paint that is
3 capable of defacing property.

4 (c) Every retailer selling or offering for sale in this state etching
5 cream or aerosol containers of paint capable of defacing property
6 shall post in a conspicuous place a sign in letters at least
7 three-eighths of an inch high stating: “Any person who
8 maliciously defaces real or personal property with etching cream
9 or paint is guilty of vandalism which is punishable by a fine,
10 imprisonment, or both.”

11 (d) It is unlawful for any person to carry on his or her person
12 and in plain view to the public etching cream or an aerosol
13 container of paint while in any posted public facility, park,
14 playground, swimming pool, beach, or recreational area, other
15 than a highway, street, alley, or way, unless he or she has first
16 received valid authorization from the governmental entity which
17 has jurisdiction over the public area.

18 As used in this subdivision, “posted” means a sign placed in a
19 reasonable location or locations stating it is a misdemeanor to
20 possess etching cream or a spray can of paint in that public facility,
21 park, playground, swimming pool, beach, or recreational area
22 without valid authorization.

23 (e) (1) It is unlawful for any person under the age of 18 years
24 to possess etching cream or an aerosol container of paint for the
25 purpose of defacing property while on any public highway, street,
26 alley, or way, or other public place, regardless of whether that
27 person is or is not in any automobile, vehicle, or other conveyance.

28 (2) As a condition of probation for any violation of this
29 subdivision, the court may order a defendant convicted of a
30 violation of this subdivision to perform community service as
31 follows:

32 (A) For a first conviction under this subdivision, community
33 service not to exceed 100 hours over a period not to exceed 90 days
34 during a time other than his or her hours of school attendance or
35 employment.

36 (B) If the person has a prior conviction under this subdivision,
37 community service not to exceed 200 hours over a period of 180
38 days during a time other than his or her hours of school attendance
39 or employment.

(C) If the person has two prior convictions under this subdivision, community service not to exceed 300 hours over a period not to exceed 240 days during a time other than his or her hours of school attendance or employment.

(f) Violation of any provision of this section is a misdemeanor. Upon conviction of any person under this section, the court may, in addition to any other punishment imposed, if the jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti, as follows:

(1) For a first conviction under this section, for 90 days.

(2) If the defendant has a prior conviction under this section, for 180 days.

(3) If the defendant has two or more prior convictions under this section, for 240 days.

Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (e) or (f) to undergo counseling.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.